

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA

In re:

Pro-Mark Services, Inc.,

Bky. Case No. 24-30167  
Chapter 7 Debtor.

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Erik A. Ahlgren, as Chapter 7 Trustee of the  
Bankruptcy Estate of Pro-Mark Services, Inc.,  
as Administrator of the Pro-Mark  
Services, Inc. Employee Stock Ownership Plan,  
and as Trustee of the Pro-Mark Services, Inc.  
Employee Stock Ownership Trust,

Plaintiff,

v.

Adversary No. 24-07014

Connie Berg, Kyle Berg, Connie Berg Revocable  
Living Trust, Kyle R. Berg Revocable Living Trust,  
Chad DuBois, and Miguel Paredes,

Defendants.

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**ORDER**

Plaintiff Erik A. Ahlgren, as Chapter 7 Trustee of the Bankruptcy Estate of Pro-Mark Services, Inc. ("Debtor"), as Administrator of the Pro-Mark Services, Inc. Employee Stock Ownership Plan, and as Trustee of the Pro-Mark Services, Inc. Employee Stock Ownership Trust, filed his *First Amended Complaint* against the Defendants, including Defendants Connie Berg, Kyle Berg, the Connie Berg Revocable Living Trust, and the Kyle R. Berg Revocable Living Trust (collectively, the "Berg Defendants"), on September 25, 2024 (the "First Amended Complaint") [[Doc. 11](#)].

On November 22, 2024, the Berg Defendants moved to dismiss the First Amended Complaint for failure to state a claim under Federal Rules of Civil Procedure 9(b) and 12(b)(6) (the "Motion to Dismiss") [[Doc. 50](#), [54](#)]. On May 1, 2025, the Court entered the

Order Granting in Part and Denying in Part Berg Defendants' Motion to Dismiss (the "Order") [Doc. 111].

On May 20, 2025, the Trustee filed his Second Amended Complaint against the Defendants, including the Berg Defendants (the "Second Amended Complaint") [ Doc. 120]. On June 18, 2025, the Berg Defendants filed their *Motion for Miscellaneous Relief* (the "Motion for Miscellaneous Relief") [Doc. 128].

On July 2, 2025, Plaintiff and the Berg Defendants filed a *Stipulated Motion to Resolve Berg Defendants' Motion for Miscellaneous Relief* (the "Stipulated Motion") [Doc. 133], in which the parties jointly requested that the Court enter a stipulated order resolving the Motion for Miscellaneous Relief on the terms in the stipulation. Accordingly,

IT IS ORDERED:

1. Counts 1 and 2 of the Second Amended Complaint are dismissed, in part, to the same extent as set forth in the Order [Doc. 111 at 11-12].
2. Consistent with the Order [Doc. 111 at 36-37], Count 6 of the Second Amended Complaint is dismissed. The parties stipulated that Plaintiff's right to appeal the dismissal of Count 6 is preserved.
3. The text ", and small-business" in the first sentence of paragraph 153 and the entire last sentence of paragraph 153 of the Second Amended Complaint are stricken from the Second Amended Complaint, for all purposes, pursuant to the Order [Doc. 111 at 23].

Dated this 7th day of July 2025.



Shon Hastings, Judge  
United States Bankruptcy Judge